IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 3239 OF 2003

IN

SUIT NO. 1654 OF 2002

Indbank Merchant banking
Services Ltd ...Plaintiffs.
vs.
M/s. Dhanwant Investments
and Ors. ...Defendants.

Prakash Shinde i/by. M. Dhruv and Co.
for the plaintiffs.
Ms. K.V. Mirza
for defendants.

CORAM: S.U. KAMDAR, J.

DATE : 2nd March, 2006.

P.C. :

1. The present suit is filed against the defendant for the recovery of sum of Rs.70,94,976.95/- and the present motion is taken out for appointment of court Receiver and

injunction inrespect of Flat No.309, Anita Building, Lokhandwala Complex, Kandivali (West).

2. It is the case of the defendant that there is no mortgage of the said flat and the documents which are annexed to the plaint inter-alia stating that the said title deed are deposited is totally false. However learned counsel for the plaintiff relies upon a letter dated 25.8.2001 being Ex.F. On the basis of the said documents it is clear that the document was in blank and thereafter the entries are made. Infact the defendant has produced before me all the title deeds of the said flat namely agreement for sale, share certificates as well as receipts of payment. I gave an opportunity to the plaintiff to produce the title deed which are supposed to have been deposited by the defendant. However the plaintiffs are not in possession of any document of title deeds and inspite of opportunity given the plaintiffs have not produced any documents indicating deposit of any

documents in respect of Flat No.309., Thus it is obvious that the claim of the plaintiff that there is an equitable mortgage inrespect of title deed is bogus and false. Motion dismissed. No order as to costs.

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